

§ 386.54 Administrative law judge.

(a) *Appointment.* After the matter is called for hearing, the Associate Administrator shall appoint an administrative law judge.

(b) *Power and duties.* Except as provided in paragraph (c) of this section, the administrative law judge has power to take any action and to make all needful rules and regulations to govern the conduct of the proceedings to ensure a fair and impartial hearing, and to avoid delay in the disposition of the proceedings. his/her powers include the following:

(1) To administer oaths and affirmations;

(2) To issue orders permitting inspection and examination of lands, buildings, equipment, and any other physical thing and the copying of any document;

(3) To issue subpoenas for the attendance of witnesses and the production of evidence as authorized by law;

(4) To rule on offers of proof and receive evidence;

(5) To regulate the course of the hearing and the conduct of participants in it;

(6) To consider and rule upon all procedural and other motions, including motions to dismiss, except motions which, under this part, are made directly to the Associate Administrator;

(7) To hold conferences for settlement, simplification of issues, or any other proper purpose;

(8) To make and file decisions; and

(9) To take any other action authorized by these rules and permitted by law.

[50 FR 40306, Oct. 2, 1985, as amended at 53 FR 2036, Jan. 26, 1988]

§ 386.55 Prehearing conferences.

(a) *Convening.* At any time before the hearing begins, the administrative law judge, on his/her own motion or on motion by a party, may direct the parties or their counsel to participate with him/her in a prehearing conference to consider the following:

(1) Simplification and clarification of the issues;

(2) Necessity or desirability of amending pleadings;

(3) Stipulations as to the facts and the contents and authenticity of documents;

(4) Issuance of and responses to subpoenas;

(5) Taking of depositions and the use of depositions in the proceedings;

(6) Orders for discovery, inspection and examination of premises, production of documents and other physical objects, and responses to such orders;

(7) Disclosure of the names and addresses of witnesses and the exchange of documents intended to be offered in evidence; and

(8) Any other matter that will tend to simplify the issues or expedite the proceedings.

(b) *Order.* The administrative law judge shall issue an order which recites the matters discussed, the agreements reached, and the rulings made at the prehearing conference. The order shall be served on the parties and filed in the record of the proceedings.

§ 386.56 Hearings.

(a) As soon as practicable after his/her appointment, the administrative law judge shall issue an order setting the date, time, and place for the hearing. The order shall be served on the parties and become a part of the record of the proceedings. The order may be amended for good cause shown.

(b) *Conduct of hearing.* The administrative law judge presides over the hearing. Hearings are open to the public unless the administrative law judge orders otherwise.

(c) *Evidence.* Except as otherwise provided in these rules and the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, the Federal Rules of Evidence shall be followed.

(d) *Information obtained by investigation.* Any document, physical exhibit, or other material obtained by the Administration in an investigation under its statutory authority may be disclosed by the Administration during the proceeding and may be offered in evidence by counsel for the Administration.

(e) *Record.* The hearing shall be stenographically transcribed and reported. The transcript, exhibits, and other documents filed in the proceedings shall constitute the official record